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JUN 1 0 1993

June 10, 1993

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND

Ms. Donna R. Searcy Secretary Federal Communications Commission 1919 M Street, N.W. Washington, D.C. 20554

Re: Inquiry Into Sports Programming Migration PP Docket No. 93-21

Dear Ms. Searcy:

Please find attached on behalf of the Office of the Commissioner of Baseball an original and 9 copies of a letter (with attachments) that was delivered today to Jane Halprin containing information to supplement the Comments of the Office of the Commissioner of Baseball filed in the above-referenced proceeding. This information is being provided to Ms. Halprin at her request.

Any questions regarding the submission should be referred to the undersigned.

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

June 10, 1993

DOCKET FILE COPY ORIGINAL

Jane Halprin, Esq. Federal Communications Commission 1919 M Street, N.W. Washington, D.C. 20554

Re: Inquiry into Sports Migration PP Docket No. 93-21

Dear Ms. Halprin:

This letter responds to certain requests for information that you and Jonathan Levy had made of the Office of the Commissioner of Baseball. I apologize for the delay in getting back to you. However, the Commissioner's Office did not have much of the data requested. With the assistance of individual clubs (and, in some cases, their rights holders), I believe we now have information responsive to each of your inquiries.

In addition, I am providing you (as Attachment A) a copy of a "white paper" and news release concerning the recently-approved broadcasting arrangement among Baseball, NBC and ABC.

- 1. New York Mets Ratings Data. Attachment B contains ratings data for the New York Mets broadcasts on Station WWOR during the years 1980-92.
- 2. ESPN Contract. Baseball's contract with ESPN (covering the 1990-93 seasons) was executed as of January 5, 1989. Baseball is currently discussing a new national telecasting arrangement with ESPN for the 1994 and subsequent seasons.
- 3. Chicago White Sox Telecasts. Attachment C identifies the White Sox over-the-air flagship station for each of the 1980-93 seasons. Attachment D is a copy of the complaint that Station WFLD filed against the White Sox in 1988; the complaint requested the court to rule that WFLD could terminate its broadcast rights agreement with the White Sox. As we previously

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Jane Halprin, Esq. June 10, 1993 Page 2

explained, WFLD became affiliated with the Fox Network in 1990; the White Sox in 1990 found only one broadcast station with any significant interest in televising their games -- WGN. WGN, however, was necessarily limited in the number of White Sox games that it could broadcast given its commitment to carry over 135 Cubs games. WGN broadcasts more Major League Baseball games than any other station in the country.

4. <u>Boston Red Sox Telecasts</u>. Baseball's prior submissions show that in 1980, the Red Sox televised 92 regular season games (28 home and 64 away games) over WSBK; the comparable number for 1993 is 75 (29 home and 46 away games). You had asked for an explanation as to why the overall reduction in WSBK Red Sox telecasts since 1980 came at the expense of away games rather than home games.

Most Baseball clubs televise only a small percentage of their home games on an over-the-air basis because of concerns about the impact on attendance. Red Sox are an exception; they are one of only six clubs whose flagship stations broadcast more than one-third of the club's home games. The Red Sox believe that, because of the unique attributes of Fenway Park, the broadcasting of more than the usual number of home games helps promote attendance at Fenway. The Red Sox, however, have largely confined the broadcasts of home games to those played on weekends; 25 of the 29 home game telecasts by WSBK in 1993 will occur on a weekend (Friday--Sunday). In light of the relatively small size of Fenway Park and the fact that weekend games (unlike weekday games) draw fans from throughout New England, the weekend games are generally sold-out or nearly soldout.

During the period 1980-93, WSBK has broadcast as many as 13 and as few as 20 Pod Sox home games each

ARNOLD & PORTER

Jane Halprin, Esq. June 10, 1993 Page 3

99 regular season games in 1983 to 69 games in 1984. In each of the nine years since then, WSBK has televised approximately the same number of Red Sox games (between 73 and 75). The Red Sox continue to present more overthe-air telecasts than all but five U.S. clubs. They have balanced their telecasts relatively evenly between WSBK and the New England Sports Network, which is jointly owned by the Red Sox, WSBK and the Boston Bruins.

5. Weekday Ratings. You had asked for 1989 over-the-air ratings data for Tuesday, Wednesday and Friday games. To date, the Commissioner's Office has been able to obtain data from 10 of the 24 U.S. clubs that played in 1989. Attachment E summarizes that data. The Commissioner's Office does not know whether the data for the remaining 14 clubs would be any different than the data for the 10 clubs for which data have been obtained. If you would like the Commissioner's Office to continue attempting to obtain the data for the remaining clubs, please let me know.

Please do not hesitate to contact me if you have any questions concerning the above matters or need any additional information.

Solvalu Savett (MA)

Robert Alan Garrett

Attachments

cc Robert M. Pepper Jonathan D. Levy

FOR IMMEDIATE RELEASE

May 28, 1993

MLB OWNERS APPROVE NETWORK TELEVISION PARTNERSHIP

Major League Baseball has agreed to an unprecedented network television partnership with ABC and NBC, designed to provide a framework for the long-term growth of baseball and to generate greater enthusiasm for the game, it was announced today.

Major League Baseball's 28 clubs have agreed to join the two networks to establish a separate joint venture, enabling MLB to implement a long-term strategy to strengthen the regular season and post-season television packages. The venture will take direct control of production, advertising and sponsorship and sale of Major League Baseball.

Under the terms of the agreement, the following commitments have been made:

- 1). All of Major League Baseball's premier events -- the All-Star Game, the proposed divisional playoffs, the League Championship Series, and the World Series -- will remain on free, over-the-air television for the duration of the contract.
 - 2). Pay-Per-View is expressly excluded from all post-season coverage for the duration of the contract.
 - 3). All network telecasts of regular season and post-season games will be shown in prime-time.
- 4). The venture partners will endeavor to telecast all weekend post-season games at a time early enough to be accessible to young fans.

Further, the partnership will administer MLB's corporate sponsorship program, initiating a "one-stop shopping" approach designed to be client-driven and allowing sponsors and advertisers to receive maximum exposure for their marketing commitments.

"We are delighted that Major League Baschall's owners have agreed to this bold and creative partnership," said Allan H. Selig, chairman of the MLB Executive Council. "We are seizing control of our destiny and feel this new, progressive television contract is the best vehicle to reganerate viewer interest. It is

an essential part of an overall strategy to ensure the long-term health of the game."

The joint venture's new television package has the following components:

Regular Season: In an effort to begin when fan interest is on an upswing, the first network telecast each season will be the Major League Baseball All-Star Game. That will be followed by 12 consecutive weeks of live prime time regular season telecasts. The telecasts will be regionalized in order to maximize local interest around the country, and will be broadcast on non-school nights (Monday or weekends during the summer, weekends in the fail). ABC will telecast the first six regular season games, and NBC will telecast the last six.

All regular season telecast dates will be exclusive to the networks. No local over-the-air or cable broadcasts of games will be allowed.

Post-Season: The Major League Baseball television committee has recommended a new round of divisional playoffs, which is subject to approval by the owners and the MLB Players Association. The best-of-five divisional playoffs would be exclusively on network television. Again, live coverage would be regionalized in prime-time to provide games of greatest interest to the appropriate areas of the country.

All League Championship Series games will be televised live simultaneously on a regional basis in prime-time. The relecasting network will provide continual updates on the series not being telecast in a particular area. In the event a sixth and/or seventh game is required in both leagues, the starting times of the games will be staggered.

Exclusive live coverage of the World Series will be in prime-time, and will start no later than 7:20 pm (ET) on weekend nights in an effort to increase the audience reach with young fans.

The networks will alternate coverage of the All-Star Game and post-season. The network telecasting the All-Star Game will also carry the LCS: the other network will carry the proposed divisional playoffs and the World Series. If both teams in a two-team market are involved in post-season play, the telecasting network will carry one of the two games, and the other will be televised by an alternate over-the-air station in that market.



MAJOR LEAGUE BASEBALL NATIONAL TELEVISION CONTRACT

WHITE PAPER MAY 28, 1993

THE SITUATION:

Ratings of nationally televised, over-the-air Major League Baseball games have declined significantly in recent years (see Appendix). Viewers have made it clear through lower ratings that they are not interested in watching nationally televised games as they are currently presented.

Yet, while national television ratings are down, other indicators of fan interest in baseball are up:

- Baseball's attendance continues to rise to unprecedented levels. All-time attendance records have been set in six of the last eight seasons and haseball is on a pace to set another record this year, whether or not the expansion teams are counted.
- The sale of MLB merchandise has reached an all-time high and is the highest among all professional leagues.
- Participation in Little League Baseball has increased by nearly one million boys and girls over the past five years to an all-time high of 2.7 million.

With these facts in mind, fan interest in the game is not at issue. Instead, the reason for declining network television ratings must be attributed to the way the game has been presented and sold on national television.

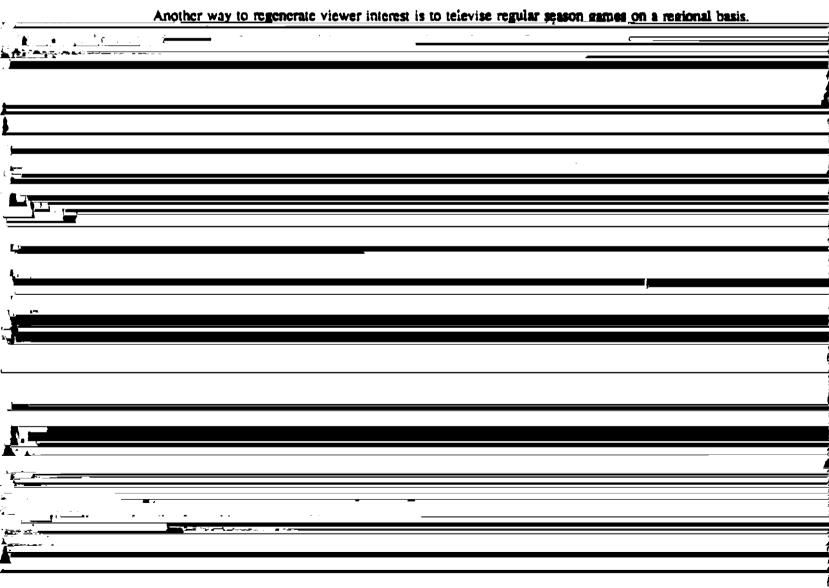
Basehall's new television proposal addresses this issue in an innovative and forward-thinking way.

It will enable basehall to provide viewers what they want: games of local interest broadcast at the time of highest viewership.

THE DEAL:

Major League Baseball's landmark joint venture with ABC and NBC will provide the following benefits to baseball:

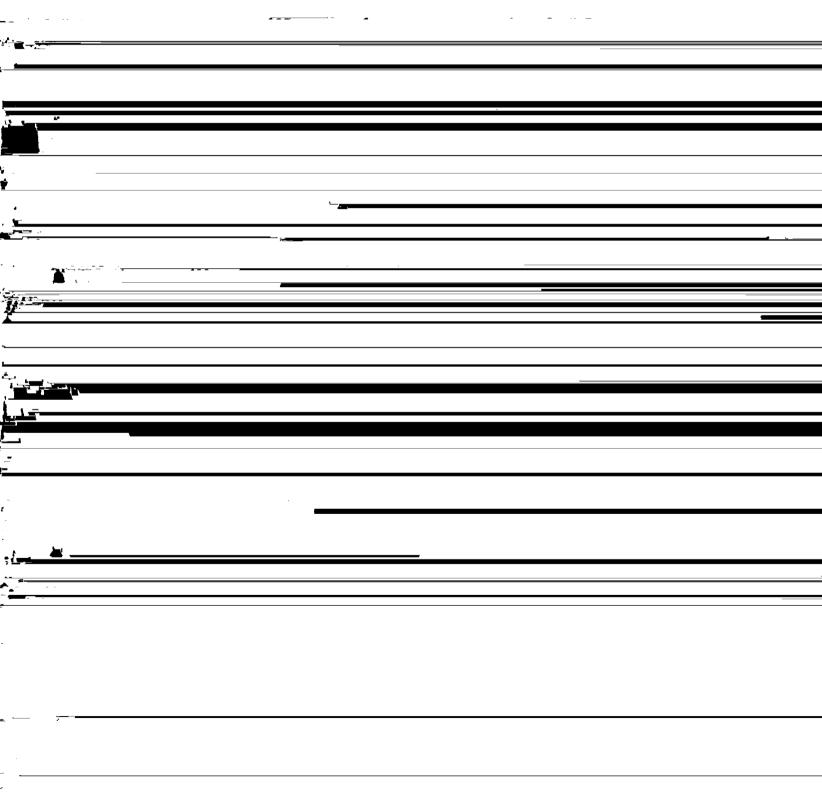
1). Regenerate Viewer Interest -- Recent national television ratings, clearly indicate that viewers are not watching national telecasts of major league games as they have in the past. The most effective way to attract more viewers is to move Baseball's national television package to prime-time. Prime-time is so named because it is the time of day in which most North Americans are home watching TV. It makes sense for MLB to showcase its games during this period. Major League Baseball will be the first and only professional sports league to air all of its post-season games in prime-time on free TV.



APPENDIX

Ratings, Saturday Afternoon Network Games: 45% decrease since 1988

Ratings, LCS Daytime Games: 37% decrease since 1985



OUESTIONS AND ANSWERS

Ouestion: Why are you doing away with the traditional Saturday Game of the Week?

Answer: The Game of the Week concept has not existed since 1989. The CBS deal reduced the number of Saturday afternoon games to 16 and this arrangement will eliminate the games altogether. The problem was that few people were watching. And those who chose to stay home to watch baseball on television preferred to watch their home team on cable.

Question: Why would baseball take this deal instead of one with a guaranteed rights fee, even if it is significantly lower than the current contract?

Answer: Because baseball feels that it can, in the long run, do better financially with the proposed joint venture. Also, the game will receive other marketing benefits. But perhaps most importantly, this deal gives Major League Baseball the ability to control its own destiny. Baseball will be able to control the presentation of its product and ensure that business and publicity opportunities are maximized.

Question: Why run League Championship Series games concurrently on a regional basis?

Answer: Baseball is the only major sport to televise its playoffs on weekdays. Since those games receive low ratings, it makes sense to air them at times of maximum exposure. Also, MLB could not add more off days to the playoff schedule to allow the leagues to alternate nights because, unlike

basketball, football and hockey, adding additional days to the playoffs would create weather concerns. The only solution is to air the two games simultaneously on a regional basis. (NOTE: Another option would have been to place the other LCS game on a cable entity for more money -- something two other major sports already do. These games would reach only about 60 percent of the country and baseball feels this would not be in the best interest of its fans.)

Question: Is baseball considering Pay-Per-View?

Answer: In a recent letter to Congressman Edward Markey, Bud Selig, Chairman of the Executive Council, stated that through the duration of the proposed contract, pay-per-view is excluded for post-season games. Selig also stated that the commitment to keep the "Jewel Events" on network television was a guiding principle as the television committee put the agreement together.

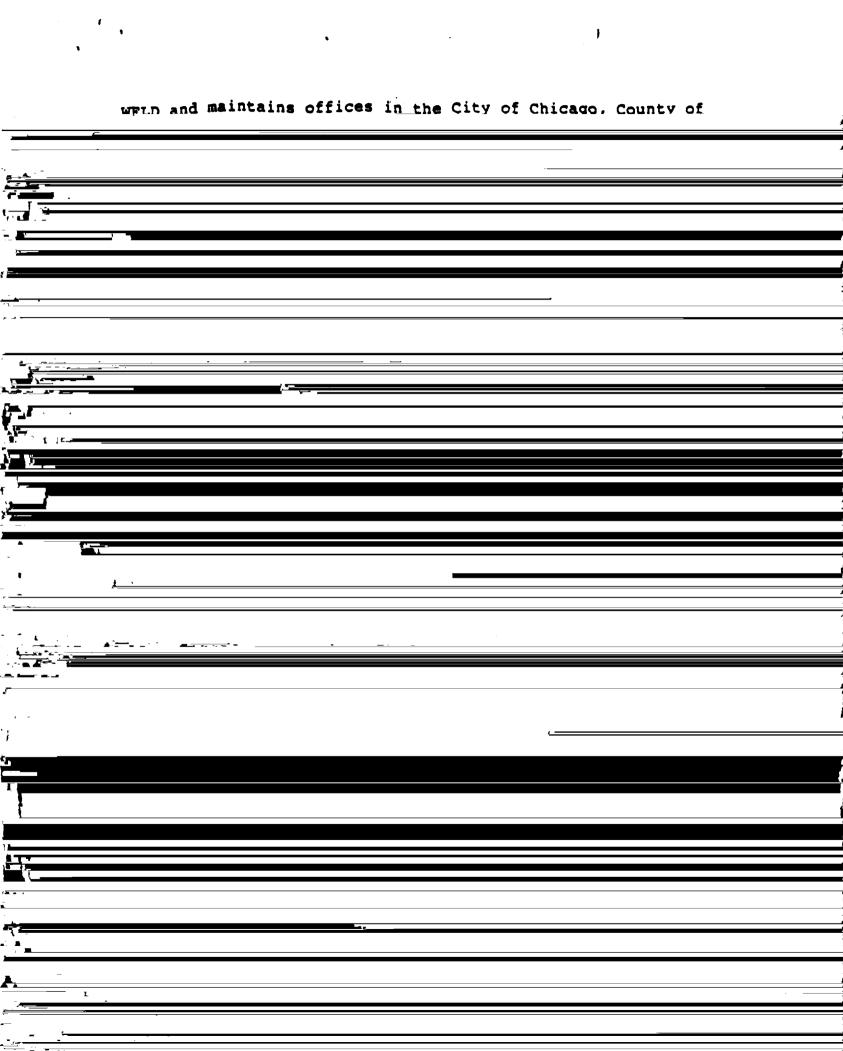
NEW YORK METS FLAGSHIP RATINGS - Rating/Share



CHICAGO WHITE SOX FLAGSHIP STATIONS 1980-1993

YEAR	FLAGSHIP STATION
1980	WSNS
1981	WGN
1982	WFLD
1983	WFLD
1984	WFLD
1985	WFLD





contract is attached hereto as Exhibit A-1 and incorporated by reference herein. On May 10, 1985 plaintiff contracted to purchase station WFLD, and said transaction was closed on March 6, 1986. Thereby, pursuant to paragraph 18 of the Television License Agreement, as the assignee of WFLD Television, Inc.'s rights and obligations, plaintiff became "Broadcaster." This was confirmed by Assignment and Assumption Agreement dated March 6, 1986, a true copy of which is attached hereto as Exhibit A-2 and incorporated by reference herein. Paragraph 16 of the Television License Agreement provides that it shall be governed by and construed in accordance with the laws of the State of Illinois.

The Subject Matter of the Contract

- 7. On December 26, 1985 the written Television License Agreement which is Exhibit A was executed between defendant Chicago White Sox, Ltd. ("Licensor") and WFLD Television, Inc. ("Broadcaster"), reciting that Licensor, the owner and operator of the Chicago White Sox American League Baseball Club, and Broadcaster, the owner and operator of WFLD-TV Channel 32 located in Chicago, desired to enter into an agreement concerning the television broadcasting of certain baseball games of the Chicago White Sox. Under the agreement, notices to the Licensor were to be directed to the attention of defendants Reinsdorf and Einhorn. Plaintiff and its assignor WFLD Television, Inc. at all times have performed all promises, obligations, and conditions required of them by the Television License Agreement.
- 8. WFLD had been broadcasting Sox games for a number of years before the execution of the 1985 contract. Under the

previous arangements the Broadcaster and the Licensor had a revenue-sharing deal whereunder they shared the proceeds of the sales of commercial time to sponsors. The new contract called for payment of a flat annual fee to the Licensor, ranging from \$4,741,275 in 1986 to \$7,912,225 in 1991, together with loans aggregating \$1,925,000, for the rights to broadcast 70 Designated Games (and additional games for additional fees under certain circumstances), in exchange for which the Broadcaster could "telecast the...Games...on a commercial basis for its sole account on behalf of advertisers selected by it in accordance with this Agreement, and all revenues derived therefrom shall be the sole property of Broadcaster."

- 9. By this Agreement the Licensor shifted to the Broadcaster all risk of loss of revenues which might arise in the event of actions which might decrease or destroy the popularity and viewer ratings of the White Sox and render the telecasts less merchantable to commercial sponsors. Thus the Licensor no longer shared the risk of loss if the subject matter of the contract decreased in value. (§\$ 5.1, 6.1.)
- 10. The provisions of the agreement show that the subject-matter of the contract is the deriving of revenues from the sale of commercial sponsorship for the televising of Chicago White Sox games, a value which depends upon the attractiveness of the White Sox to fans so as to enhance the viewer ratings, and that there is an express agreement not to impair the rights of the Broadcaster to telecast on a commercial basis for its sole account and an implied promise of the Licensor to exercise good

faith and fair dealing in not hindering or impairing this right of the Broadcaster and to cooperate in preserving the value and commercial attractiveness of the White Sox on which the revenues depend.

- 11. The Television License Agreement recites that "Licensor is the owner and operator of the Chicago White Sox American League Baseball Club ('White Sox'); and Broadcaster is the owner and operator of television station WFLD-TV Channel 32 (the 'Station'), located in Chicago, Illinois" and that "Licensor and Broadcaster desire to enter into an agreement concerning the television broadcasting by Broadcaster of certain baseball games of the Chicago White Sox."
- 12. The fact that the agreement is based upon the appeal of the broadcasts to local Chicago fans is shown in the following Grant of Rights:
 - "2.1 (a) ...Licensor hereby grants to Broadcaster an exclusive license for Open Circuit Television
 Broadcasting over the Station within the Home Territory on a live basis of a minimum of seventy (70) Designated Games (including 3 pre-season Games) ("Minimum Number") and a maximum of eighty one (81) Designated Games (including 3 pre-season Games) during each season during the term of this Agreement..."
- 13. That the attractiveness and goodwill of the Chicago White Sox are contemplated as an essential element of the contract is shown also in the following provisions:
 - "5.8 During each season of the term of this Agreement, Licensor agrees to provide Broadcaster, at no cost to Broadcaster, at Broadcaster's request, with the following maximum promotional considerations:
 - "(a) 74 Golden Box or Loge Box and 6 regular Box seats to each Game (other than Play-off Games) to be utilized in connection with merchandising packages

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"(a) to use and license the use as news or informative matter, the name and likeness of, and biographical material concerning, each player, manager and coach of the White Sox and each team with which the White Sox compete in Designated Games and the names and insignia of Licensor and the White Sox; and

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- (b) to disseminate, reproduce, print and publish and to license the dissemination, reproduction, printing and publishing of the name, likeness, and voice of, and biographical material concerning, each of said persons specified in the preceding clause in connection with advertising and public relations related to the Designated Games including their telecast over the station and, to the extent Licensor has the right to grant same, in connection with the advertising by Broadcaster of the Designated Games..."
- 15. The obligation of defendant Licensor to furnish the Broadcaster with White Sox broadcasts of quality and viewer appeal is reinforced in paragraph 3:
 - "3.1 Licensor shall be responsible to arrange for the production of the Designated Games and the Pre-Game Shows and Post-Game Shows, if any, at Broadcaster's expense and may, in that connection, contract for the services of a production service company and other necessary personnel acceptable to Licensor and Broadcaster....The quality of such productions shall be at least equal to, and shall comply in all respects with, the standards and requirements of the League with respect to the broadcast of the Games and shall be of a production quality at least equal to the production quality of the games of the White Sox broadcast over the Station during the 1985 season."
- 16. As stated hereinabove, the Broadcaster contracted for the sole right to derive revenues from commercial sponsors and defendant Licensor gave up all rights to participation in the receipts from commercial sponsorship in exchange for the high flat fees it exacted from Broadcaster. This is the primary purpose and reason for the contract and these revenue-producing aspects are intrinsic to the contract. This is spelled out expressly in Section 5.1:

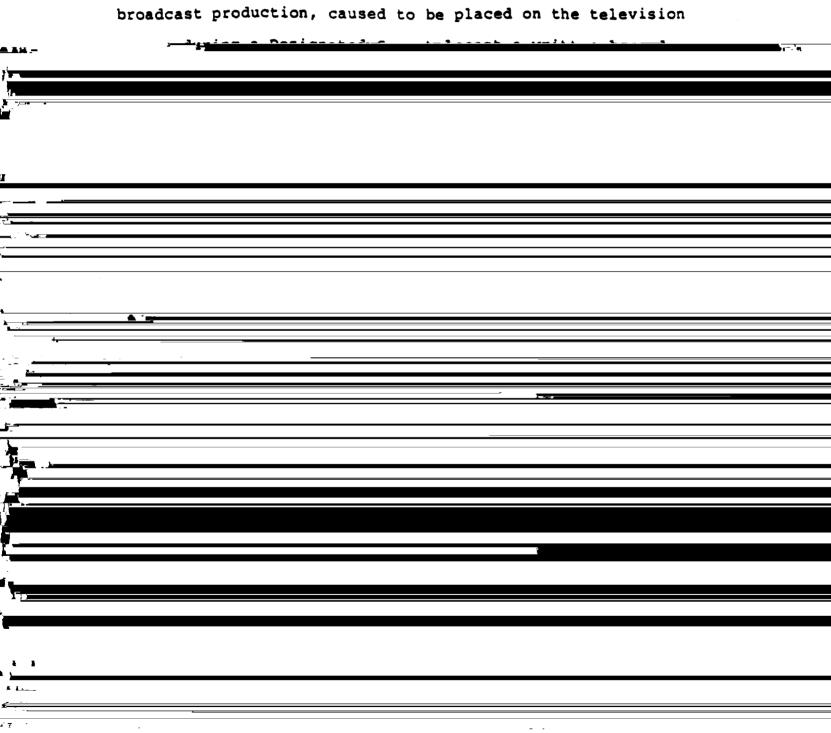
- "5.1 Subject to the further provisions of this Section 5 [which are not relevant in this context], Broadcaster shall have the right to telecast the Designated Games, pre-Game Shows and Post-Games Shows on a commercial basis for its sole account, on behalf of advertisers selected by it in accordance with this Agreement, and all revenues derived therefrom shall be the sole property of Broadcaster." (Emphasis supplied.)
- 17. The agreement provided that the announcers for broadcasts of Designated Games were to be employees of the Licensor, who would be reimbursed by the Broadcaster for their services.

 Licensor agreed to require the announcers to contract to agree as follows (§ 3.4(ii)):
 - "(ii) The announcer will not...without Licensor's and Broadcaster's prior consent, permit mention or identification on any telecast of any product, service, trademark or brand name except as otherwise provided in this Agreement..." (Emphasis

commercials per game and certain additional sponsor identification, and stipulated:

"The products to be advertised are: Dodge Cars and Trucks. The Chicagoland Dodge Dealers will be protected with in-game exclusivity for domestic cars." (Emphasis supplied.)

20. During the year 1987 defendants, in their control of broadcast production, caused to be placed on the television

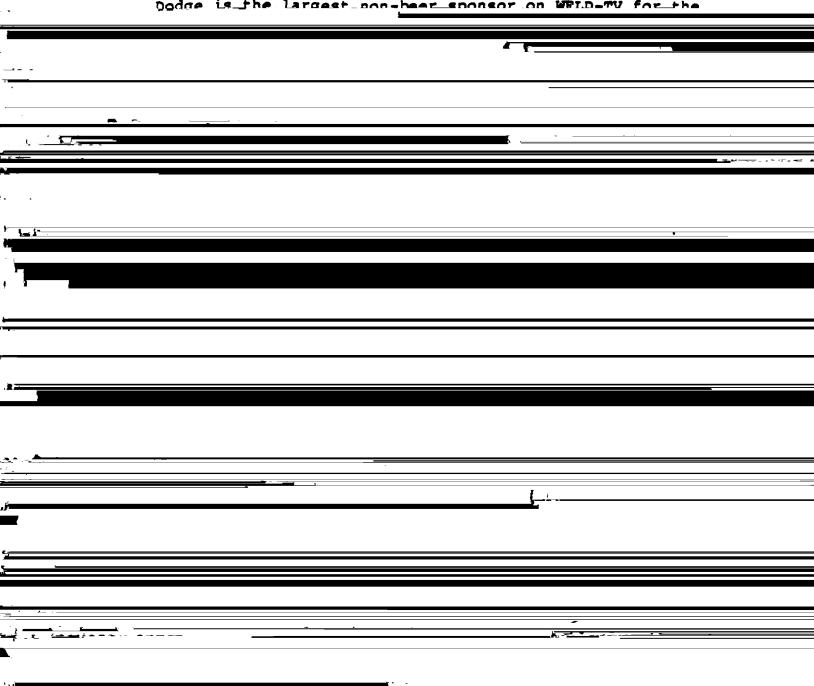


incorporated by reference herein) to defendants' management personnel, stating:

"A recurring problem of North Oak Chrysler/Plymouth Drop-ins on WFLD-TV telecasts has happened again this year.

On Monday, April 19, 1988, in the Sox telecast, WFLD aired a North Oak Chrysler/Plymouth Drop-in promoting an upcoming stadium event.

As we discussed, Dodge is the Exclusive Domestic sponsorship for the White Sox on WFLD-TV. No mention or Drop-in promoting a domestic auto maker may be made. This problem has created a threat of sponsorship cancellation. Dodge is the largest postponsor on WFLD-TV for the



promotion of the O'Connor Ford sales agent, defendants' announcer-employee, with few exceptions, neglected his duties to report on the plays of the sixth inning, so that frequently the viewer had to guess from the screen alone the status of play, and instead defendants' announcer caused the telecast during the entire sixth inning to concentrate instead on telecasting and promoting the sales agent for O'Connor Ford.

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26. The videotape of that telecast is contained in Exhibit C and incorporated herein. As is shown therein, for the entire sixth inning the announcer made only sparse and occasional catch-up references to what was going on in the game. Instead, for 7 minutes and 40 seconds defendant promoted the Ford sales agent as both a former baseball player of note and as a source where people should obtain Ford cars, with repeated emphasis on O'Connor Ford's business location and where to call. The following transcript from the tape of the conversations relating to these subjects shows the gravity and immensity of defendants' breach and tortious action (emphasis supplied):

"We're playing in the top half of the 6th inning. Tom Paciorek, and I'm John Rooney.

We have a special guest in the booth with us this inning. Jerry Hairston has joined us. ... I haven't seen you since spring training. We'd like to talk with you and catch us up to date. What have you been up to?

I've been doing fleet sales and leasing for O'Connor Ford, down near Western Avenue, 95th and Western. I've been there since my release from the White Sox.

Jerry that was a tough thing in spring training with a 24-man roster you knew you were on the bubble-- Did you plan for this day when you wouldn't make the ball club?

Sure, really when I signed on I knew one day it would be that I would not be playing baseball. Baseball has been

a family tradition. You know when you start, you know it's gotta end. So I planned a little bit, I talked to the o'Connors during the winter time and they offered me a job to do fleet sales with them, to contact corporations to try to get their company cars. It's worked out real good and I'm very happy at this moment.

Of course everybody knows that Jerry is the all-time White Sox pinch hitter. The most hits ever. I think that's a record that's going to stand forever with the White Sox. I tell you, it was just automatic when you were up there, especially when the game was on the line. How much do you miss playing?

Well, you know I'm so busy when I'm at home with working and with my five children that I don't really miss it, until right now when I'm out here at the ballpark. I've been out here almost six or seven times during the season and this is when I miss it when I'm out here.

Some guys when they leave baseball they like to get away from it entirely. Do you enjoy coming out to the ballpark, Jerry?

Well, I enjoy it when I get here. And I really hated to leave baseball, but like I said before, you know that day is gonna come, and the relationship I have here with the White Sox has been a good one and there's no hard feelings.

I know that was a tough decision for them.

Like I said, youth movement is coming. You got guys that you can't be sending back to the minor leagues. You want to see what they can do here. You gotta give them that chance.

How about getting back into baseball, Jerry, have you ruled that out completely?

No, I haven't ruled it out. That's not out of the question but I've learned a long time ago you can't make somebody do anything. So what you have to do is mentally stay prepared, and like today I came out and hit some baseballs in the cage. So I hit the ball real good and I was very pleased with results.

Maybe a comeback as a player, why not?

That'd be nice.

Three up and three down at this half of the 6th inning. Can you stay with us for the bottom, Jerry?